

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA]
SECOND APPELLATE DISTRICT**

December 20, 2002

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J. and D. Nolan, Deputy Clerk.

Each of the following:

B156476 Cabot, etc., v. DW Burhoe Const.
B158466 c/w B159749 DCFS v. Jonitha W.
B157000 Johnson v. Headrick, Jr.
B158137 DCFS v. Manuel A.

Argument waived, cause submitted.

B150239 Patricia Ringold
 v.
 Harvey Baker

Merits:
Argued by David B. Dimitruk for appellant and by Trudy Polsky for
respondent. Cause submitted.

B158682 Ashcroft Development
 v.
 Adrian Aiache, et al.

Merits:
Argued by Daniel B. Spitzer for appellant and by Bert L. Rogal for
respondents. Cause submitted.

December 20, 2002 (Continued)

DIVISION ONE (Continued)

B152466 Mortgage Associates, Inc.
v.
Fidelity & Deposit Company of Maryland, et al.

Merits:

Argued by Peter M. Kuntsler for appellant, by Hall R. Marston for respondent Fidelity & Deposit Company of Maryland, and by Stephen E. Anderson for respondent Fidelity National Title. Cause submitted.

B148894 ARP Trading, Inc.
v.
Newlowe Properties, et al.

Merits:

Argued by Glenn A. Besnyl for appellant and by Christine A. Scheuneman for respondents. Cause submitted.

Court adjourned.

B135755 People (Not for Publication)
v.
Edward Charles Willis

We strike the true finding that Willis' deadly weapon assault prior conviction was a strike. We modify the judgment to award Willis 184 actual and 92 good time/work time presentence credit days, for a total of 276 days. We remand the case for the trial court to prepare an amended abstract of judgment reflecting these changes and forward it to the Department of Corrections. In all other respects we affirm the judgment.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Mallano, J.

December 20, 2002 (Continued)

DIVISION TWO

B149595 People (Not for Publication)
v.
Talmantez

The judgment is affirmed.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

B158598 Aguilar (Not for Publication)
v.
Villagomez
and
Mexibanc Mortgage Corporation

The judgment is modified by reducing the amount of the sanctions imposed from \$2,500 to \$1,000. In all other respects, the judgment is affirmed. Mexibank is entitled to costs on appeal.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

B155424 Violano (Not for Publication)
v.
Urrutia-Jomar, Inc.

The judgment (order) is affirmed. Respondent(s) to recover costs.

Boren, P.J.

We concur: Doi Todd, J.
 Ashmann-Gerst, J.

December 20, 2002 (Continued)

DIVISION FOUR

B153748 People (Not for Publication)
v.
Cruze

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

B157921 Holguin, et al. (Not for Publication)
v.
Coleman, et al.

The judgment is reversed. Holguin and Johnston are to have their costs on appeal.

Epstein, Acting P.J.

We concur: Hastings, J.
Curry, J.

DIVISION FIVE

B150951 Donald Harrahill, et al. (Certified for Publication)
v.
City of Monrovia

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, J.

I concur: Grignon, Acting P.J.
I dissent: Mosk, J. (Opinion)

December 20, 2002 (Continued)

DIVISION FIVE (Continued)

B143162 Lewis Jorge Construction Management Inc.
v.
Pomona Unified School District et al.

Filed order denying petition for rehearing.

DIVISION EIGHT

B155799 Insua, et al. (Certified for Publication)
v.
Scottsdale Insurance Company

The judgment is affirmed. Respondent shall recover its costs on appeal.

Rubin, J.

We concur: Cooper, P.J.
Boland, J.

B157317 Gail P. Flaum, Individually and as Executor, etc. (Not for Publication)
v.
Superior Court, Los Angeles County
(RGR Sanitarium et al., r.p.i.)

The petition for writ of mandate is granted in part. The respondent court is directed to (1) vacate its order of January 24, 2002, granting the petition of real parties in interest to compel arbitration and dismissing the action, and (2) offer the parties an opportunity to provide additional briefing and then schedule a hearing to consider whether the causes of action brought by petitioner Flaum on her own behalf are subject to arbitration in light of *Buckner v. Tamarin*, supra, 98 Cal.App.4th 140. In all other respects, the petition is denied. The parties are to bear their own costs in this writ proceeding.

Cooper, P.J.

We concur: Rubin, J.
Boland, J.

DIVISION EIGHT (Continued)

B161340 Nielsen Dillingham Builders, Inc., et al. (Not for Publication)
v.
Superior Court, Los Angeles County
(Frederick Meiswinkel, Inc., r.p.i.)

The petition for writ of mandate is granted in part. The respondent court is directed (1) to vacate the portions of its order of July 30, 2002 denying petitioners' request to stay the action insofar as the claims asserted against them are concerned pending conclusion of thereafter enter a new and different order staying the action with respect to any claims asserted against petitioners. In all other respects, the petition is denied. Petitioners are entitled to recover their costs in this writ proceeding. Having served its purpose, this court's temporary stay order of September 13, 2002, is hereby vacated.

Boland, J.

We concur: Cooper, P.J.
Rubin, J.